

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

TERA J. CUNNINGHAM,

Plaintiffs,

-vs-

THE TOWN OF ELLICOTT,
THE TOWN OF ELLICOTT POLICE
DEPARTMENT, CHIEF WILLIAM
OHNMEISS, JR., INDIVIDUALLY,
PATRICK TYLER, ELLICOTT TOWN
BOARD SUPERVISOR,

Defendant.

PLAINTIFF'S
PRE-TRIAL STATEMENT

Civ Action No.:04-CV-301E(SC)

Plaintiff TERA J. CUNNINGHAM, by and through her counsel of record, CHRISTINA A. AGOLA, as and for her first Pre-Trial Statement submits the following list of witnesses and Exhibits.

A. List of Witnesses

- (1) Patricia Eimers
- (2) Andrew Goodell
- (3) Mark Cunningham
- (4) Todd Beckerink
- (5) James Curtis
- (6) Kenneth M. Laker
- (7) Brandon Maggio
- (8) Sherry Lantz
- (9) Daryl P. Brautigam
- (10) Lisa Ross
- (11) Sgt. David S. Arnone

- (12) Josh Tyler
- (13) Patrick Tyler
- (14) William Ohnmeiss Jr.
- (15) Matthew J. Timmerman
- (16) Brain Taylor
- (17) Kevin Sirwatka
- (18) Jodi Timmerman
- (19) David Switzer
- (20) Brad Widen
- (21) Ethan VanRyan
- (22) Janice Vanstrom
- (23) Holly Bianco
- (24) Vincent Trippi
- (25) Dr. Richard H. Spector

B. List of Exhibits

- EXHIBIT 300: New York State Department of Civil Service State Personnel Management Manual, Section 2010 Probation
- EXHIBIT 301: Internal Investigation Report of Daryl P. Brautigam
- EXHIBIT 302: State of New York Executive Department, Division of Human Rights Complaint of Patricia Eimers
- EXHIBIT 303: Affidavit of Lisa Ross
- EXHIBIT 304: Deposition of Matthew Timmerman

- EXHIBIT 305: July 7, 2003 Minutes of a Regular Meeting of the Town Council of the Town of Ellicott
- EXHIBIT 305a: August 4, 2003 Minutes of a Regular Meeting of the Town Council of the Town of Ellicott
- EXHIBIT 305a(i): Agreement Between Town of Ellicott and Chief Ohnmeiss
- EXHIBIT 305b: November 17, 2003 Minutes of a Regular Meeting of the Town Council of the Town of Ellicott
- EXHIBIT 305c: December 15, 2003 Minutes of a Regular Meeting of the Town Council of the Town of Ellicott
- EXHIBIT 305d: March 15, 2004 Minutes of a Regular Meeting of the Town Council of the Town of Ellicott
- EXHIBIT 306: July 2, 2003 Letter by James V. Curtis Regarding Tara Cunningham's Residency
- EXHIBIT 307: August 7, 2003 Memo from James V. Curtis to Chief Ohnmeiss Requesting Release of Patrol Logs Concerning Tara Cunningham
- EXHIBIT 307a: August 7, 2003 Letter by James V. Curtis to Chautauqua County Civil Service Regarding Tara Cunningham's Residence
- EXHIBIT 308: September 30, 2003 Memo from Chief Ohnmeiss to Tara Cunningham Regarding James V. Curtis' Personnel Complaint
- EXHIBIT 308a: October 14, 2003 Letter from Andrew Goodell to Chief Ohnmeiss
- EXHIBIT 309: December 1, 2003 Letter from Chautauqua County Department of Human Resources to James V. Curtis
- EXHIBIT 310: December 17, 2003 Letter from Goodell & Goodell to James V. Curtis Regarding Filing a False Instrument
- EXHIBIT 311: October 21, 2003 Letter from Jim V. Curtis to Chautauqua County Civil Service
- EXHIBIT 312: May 3, 2004 Minutes of a Regular Meeting of the Town Council of the Town of Ellicott

- EXHIBIT 313: October 28, 2003 Letter from Andrew Goodell to Joseph Porpiglia Regarding Tara Cunningham's Falconer Residence
- EXHIBIT 314: December 3, 2003 Letter from Andrew Goodell to Joseph Porpiglia Requesting James V. Curtis' October 21, 2003 Letter
- EXHIBIT 315: December 29, 2003 Letter from Andrew Goodell to Paul V. Webb, Jr. Regarding James V. Curtis' False Statements
- EXHIBIT 316: December 22, 2003 Letter from Neil McNeight to Andrew Goodell
- EXHIBIT 317: October 20, 2003 Letter from Andrew Goodell to Tara Cunningham
- EXHIBIT 318: March 5, 2004 Letter from Chief Ohnmeiss to Tera Cunningham, Notice of Termination
- EXHIBIT 318a: Probationary Employee Development, Management Concept
- EXHIBIT 318b: Affidavit of Chief William Ohnmeiss, Jr.
- EXHIBIT 318c: Affidavit of Branden N. Maggio
- EXHIBIT 318d: Affidavit of David S. Arnone
- EXHIBIT 318e: Affidavit of Todd A. Beckerink
- EXHIBIT 318f: Affidavit of James Jarozinski
- EXHIBIT 319: Ellicott Police Department Field Training Program Daily Observation Reports
- EXHIBIT 320: Ellicott Police Department Field Training Program Evaluation, Monthly Field Training Observation Report
- EXHIBIT 320a: October 9, 2003 Ellicott Police Department Field Training Program Evaluation Monthly Field Training Observation Report
- EXHIBIT 320b: January 2, 2004 Ellicott Police Department Field Training Program Evaluation Monthly Field Training Observation Report
- EXHIBIT 320c: January 25, 2004 Ellicott Police Department Field Training Program Evaluation Monthly Field Training Observation Report

- EXHIBIT 320d: February 13, 2004 Ellicott Police Department Field Training Program Evaluation Monthly Field Training Observation Report
- EXHIBIT 321: March 5, 2004 Letter from Todd A. Beckerink Regarding Tera Cunningham's Attitude After Full-Time Appointment
- EXHIBIT 321a: March 4, 2004 Evaluation Summary
- EXHIBIT 322: Report by Branden N. Maggio on Tera Cunningham
- EXHIBIT 323: March 4, 2004 Letter by David S. Arnone Evaluation and Reasons Tera Cunningham Unsuccessfully Completed Probation Period
- EXHIBIT 324: January 31, 2004 Letter from Tera Cunningham to ID32 Regarding Voluntary Women's Service Employment
- EXHIBIT 325: January 30, 2004 Memo from David S. Arnone to Tera Cunningham Regarding Voluntary Women's Service Employment
- EXHIBIT 326: Character Reference
- EXHIBIT 327: March 8, 2004 Letter from Christina A. Agola to Chief Ohnmeiss Acknowledging Tera Cunningham's Termination and Requesting a Full Meeting of the Town Board of Ellicott
- EXHIBIT 328: March 5, 2004 Letter from Chief Ohnmeiss to Patrick Tyler and Cecil Miller Regarding the Decision to End Tera Cunningham's Probationary Period
- EXHIBIT 329: EEOC Charge of Tera Cunningham
- EXHIBIT 330: Post Journal New Article "Female Patrolwoman Alleges Sexual Harassment, Faces Termination"
- EXHIBIT 332: News Article "Officer Files Bias Charge"
- EXHIBIT 333: March 15, 2004 Minutes of a Regular Meeting of the Town Council of the Town of Ellicott
- EXHIBIT 334: Town of Ellicott's Responses to EEOC Charge

- EXHIBIT 335: New Article "Report Backs Board on Allegations Made by Former Ellicott Police Officer"
- EXHIBIT 336: News Article "Ex-Officer's Harassment Complaint Disputed"
- EXHIBIT 337: New Article "Investigation Complete"
- EXHIBIT 337a: January 6, 2003 Domestic Incident Report of Patrick Tyler
- EXHIBIT 337b: Simplified Traffic Information's for Josh Tyler
- EXHIBIT 338: Town of Ellicott Police Department Rules & Regulations Manual
- EXHIBIT 339: Town of Ellicott Police Department Rules & Regulations Manual Book Assignment
- EXHIBIT 340: Sexual Harassment General Order of Chief Rodney A. Vanstrom
- EXHIBIT 340a: Discrimination and Harassment General Order of Chief Ohnmeiss
- EXHIBIT 341: EEOC Notice of Right to Sue
- EXHIBIT 342: EEOC Complaint Amendment of Tera Cunningham
- EXHIBIT 343: August 4, 2004 Notice of Right to Sue Letter
- EXHIBIT 344: Complaint of Tera Cunningham
- EXHIBIT 345: Amended Complaint of Tera Cunningham
- EXHIBIT 346: Answer to Amended Complaint
- EXHIBIT 347: Deposition of Thomas P. Geisler
- EXHIBIT 348: Audio Disc of Tera Cunningham's Termination
- EXHIBIT 348a: Transcript of Tera Cunningham's Termination
- EXHIBIT 349: Audio Disco of March 15, 2004 Meeting of the Town Council of the Town of Ellicott
- EXHIBIT 349a: Transcript of March 15, 2004 Meeting of the Town Council of the Town of Ellicott

Dated: October 16, 2006
Rochester, New York

Respectfully Submitted By:

/s/ Christina A. Agola

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